

## **IC 8-6-4**

### **Chapter 4. Signals at Railroad Grade Crossings**

#### **IC 8-6-4-1**

##### **Bell and whistle required equipment; duty to sound**

Sec. 1. (a) A railroad company operating in this state shall equip every locomotive engine with a whistle and a bell, maintained in good working order, such as are used by other railroad companies. Except when approaching a crossing to which an ordinance adopted under subsection (c) applies, the engineer or other person in charge of or operating an engine upon the line of a railroad shall, when the engine approaches the crossing of a turnpike, public highway, or street in this state, beginning not less than one-fourth (1/4) mile from the crossings:

- (1) sound the whistle on the engine distinctly not less than four (4) times, which sounding shall be prolonged or repeated until the crossing is reached; and
- (2) ring the bell attached to the engine continuously from the time of sounding the whistle until the engine has fully passed the crossing.

(b) It is unlawful for an engineer or other person in charge of a locomotive to move the locomotive, or allow it to be moved, over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. It is unlawful for a railroad company to order or permit a locomotive to be moved over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. When a whistle or bell is not in good working order, the locomotive must stop before each crossing and proceed only after manual protection is provided at the crossing by a member of the crew unless manual protection is known to be provided.

(c) A city, town, or county may adopt an ordinance to regulate the sounding of a whistle or the ringing of a bell under subsection (a) in the city, the town, or the county. However, an ordinance may not prohibit the sounding of a whistle or the ringing of a bell at a crossing that does not have an automatic train activated warning signal as set forth in IC 8-6-7.7-2. An ordinance adopted after June 30, 2003, that prohibits the sounding of a whistle or the ringing of a bell at a crossing must require that signs be posted at the crossing to warn the public that trains do not sound whistles or ring bells at that crossing. Before an ordinance adopted under this subsection goes into effect, the city, town, or county must receive the written permission of the department to regulate the sounding or the ringing. The department shall grant permission only if the department determines, based upon a study conducted by the department, that the ordinance, as applied to the rail corridor identified in the ordinance, increases the overall safety of the corridor for the public. Notwithstanding anything to the contrary in this subsection, the department shall grant permission to a city or a town to regulate the sounding of a whistle or the ringing of a bell if the city or town had

an ordinance regulating the sounding of a whistle or the ringing of a bell that was approved and in effect on January 1, 1991, if the city or town amended or repealed the ordinance, and if the city or town adopts a subsequent ordinance on the same subject. In making its determination during the course of the study, the department shall consider:

- (1) school bus routes;
- (2) emergency service routes;
- (3) hazardous materials routes;
- (4) pedestrian traffic;
- (5) trespassers;
- (6) recreational facilities;
- (7) trails; and
- (8) measures to increase safety in the corridor, including:
  - (A) four (4) quadrant gates;
  - (B) median barriers;
  - (C) crossing closures;
  - (D) law enforcement programs; and
  - (E) public education.

The study by the department required under this subsection must be completed not later than one hundred twenty (120) days after the department receives notice of the passage of the ordinance from the city, town, or county.

(d) Notwithstanding a contrary provision in an ordinance adopted under subsection (c), an engineer or other person who is operating an engine shall sound the engine's whistle if, in the determination of the engineer or other person who is operating the engine, an apparent emergency exists.

(e) A railroad company and the employees of the railroad company are immune from criminal or civil liability for injury or property damage that results from an accident that occurs at a crossing to which an ordinance described in subsection (c) applies if the injury or property damage was proximately caused solely by the railroad company and the employees failing to sound a whistle.

(f) The Indiana department of transportation shall review crossing safety at each crossing to which an ordinance adopted under subsection (c) applies not less than one (1) time in a five (5) year period.

(g) The Indiana department of transportation may not revoke the permission granted under subsection (c) for an ordinance.

(h) The Indiana department of transportation may create pilot railroad crossing safety projects to improve railroad crossing safety. *(Formerly: Acts 1879(ss), c.77, s.1; Acts 1881(ss), c.85, s.1; Acts 1943, c.208, s.1; Acts 1972, P.L.63, SEC.1.) As amended by P.L.62-1984, SEC.100; P.L.384-1987(ss), SEC.63; P.L.18-1990, SEC.73; P.L.59-1992, SEC.1; P.L.101-1993, SEC.1; P.L.199-1999, SEC.1; P.L.137-2003, SEC.1.*

## **IC 8-6-4-2**

### **Violations; penalties; damages for personal injuries or property**

**damage**

Sec. 2. Every engineer or other person in charge of or operating any such engine, who shall fail or neglect to comply with the provisions of section 1 of this chapter, shall be held personally liable therefor to the State of Indiana, in a penalty of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), to be recovered in a civil action, at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located; and a railroad company that violates the provisions of IC 1971, 8-6-4-1(b) shall be held liable therefor to the State of Indiana, in a penalty of not less than two hundred fifty dollars (\$250) nor more than five thousand dollars (\$5,000), to be recovered in a civil action, at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located; and the company in whose employ such engineer or person may be, as well as the person himself, shall be liable in damages to any person, or his representatives, who may be injured in property or person, or to any corporation that may be injured in property, by the neglect or failure of said engineer or other person as aforesaid.

*(Formerly: Acts 1879(ss), c. 77, s. 2; Acts 1972, P.L. 63, SEC. 2.)*

**IC 8-6-4-3****Actions to recover penalties; venue**

Sec. 3. All actions for the recovery of the penalties prescribed in section 2 of this chapter shall be prosecuted in the name of the state by the prosecuting attorney of any county where the failure or neglect occurs.

*(Formerly: Acts 1879(ss), c. 77, s. 3.) As amended by P.L. 62-1984, SEC. 101; P.L. 192-1986, SEC. 7.*

**IC 8-6-4-4 Repealed**

*(Repealed by Acts 1972, P.L. 63, SEC. 3.)*

**IC 8-6-4-5****Fines and penalties; disposition**

Sec. 5. All fines and penalties collected under the provisions of this chapter shall be appropriated to the benefit of the common school fund of the state, and the clerk of the court wherein such fines and penalties may be assessed and recovered shall, upon receipt thereof, pay the same over to the treasurer of said county, for the purpose aforesaid.

*(Formerly: Acts 1879(ss), c. 77, s. 5.) As amended by P.L. 62-1984, SEC. 102.*